



U.S. Department of Housing and
Urban Development

Office of Public and Indian

Housing

Special Attention:
Directors, Offices of
Public Housing;
Administrators, Offices of
Native American
Programs, Offices of
Housing; Section 8 Public
Housing Agencies and
Indian Housing
Authorities

Notice PIH 96-65 (HA)

Issued: August 15, 1996
Expires: August 31, 1997

Cross References:

**Subject: Rental Certificates and Vouchers -- Departmental
Policy on Sanctions for Delinquent Payments under the
Portability Billing Procedures**

1. Purpose. This notice alerts public housing agencies (HAs) that the Department of Housing and Urban Development (HUD) intends to impose sanctions in cases where HAs are delinquent in reimbursing other HAs under the portability billing procedures for the Section 8 rental voucher and certificate programs.
2. Background. The program regulations for the Section 8 certificate and voucher programs at §982.355(e) provide that the receiving HA may bill the initial HA for housing assistance payments and administrative fees to cover assistance for a portable family. The regulations require that the initial HA must promptly reimburse the receiving HA for the full amount of the housing assistance payments made by the receiving HA for the portable family. The initial HA must also promptly reimburse the receiving HA for 80 percent (or a negotiated different amount, if both HAs agree) of the initial HA on-going administrative fee for each unit month that the family receives assistance under the tenant-based programs from the receiving HA.

The regulations further require that in the administration of portability, the initial HA and the receiving HA must comply with financial procedures required by HUD, including the use of HUD-required billing forms. The initial and receiving HA must comply with billing and payment deadlines under the financial procedures. HUD may assess penalties against an initial or receiving HA for violation, as determined by HUD, of

the portability requirements. These penalties include reducing the administrative fee to an initial HA if the HA does not promptly reimburse the receiving HA for housing assistance payments or fees for administering rental assistance for portable families.

HUD issued Notice PIH 95-56 on September 19, 1995. The notice provided the mandatory Portability Information Form, HUD-52665, and established deadlines for both the submission of billings by the initial HA and the reimbursement of billings by the receiving HA. This action was in response to HAs concerns about the lack of standardization in the billing process, which created confusion and added to the administrative cost for HAs. HUD Notice PIH 95-56 was recently superseded by HUD Notice PIH 96-54, issued on July 27, 1996.

The initial HA is required to make the initial payment to the receiving HA within 30 calendar days following receipt of the billing form. Subsequently, the initial HA must make payment each month the billing arrangement is in effect, unless both HAs agree to a different schedule for the receiving HA to submit billing payments (for instance, forwarding or reimbursing the billing amounts on a quarterly or semi-annual basis).

Although the vast majority of HAs are complying with the billing reimbursement deadlines, the Department is still receiving complaints from receiving HAs that are having difficulty in collecting billing amounts. In many cases billing difficulties simply result from miscommunications that are often resolved by the HAs themselves or with minimal assistance from the HUD State or Area Office. There are some situations, however, where the receiving HA is unable to resolve the problem in this manner. This is a serious problem as the initial HA's failure to make payments in a timely manner frustrates the receiving HA's efforts to effectively administer the program. HUD is determined to ensure that receiving HAs are promptly reimbursed for administering rental assistance on behalf of portable families and will take corrective action where necessary.

3. HUD Sanctions for Delinquent Portability Billing Reimbursements. If a receiving HA experiences billing reimbursement difficulties, it should first contact the initial HA and attempt to resolve the problem. In cases where the reimbursement problems cannot be resolved by the two HAs, the receiving HA should contact the Office of Public Housing in the local HUD State or Area Office for assistance. Upon notification by the receiving HA, the Office of Public Housing will contact the initial HA (or the appropriate HUD State or Area Office if another HUD Office works with the initial HA) to discuss the problem with the initial HA and determine if the receiving HA complaint is legitimate.

HUD intends to reduce administrative fees for initial HAs that fail to reimburse receiving HAs in a timely manner. As a general policy, HUD will impose this sanction in cases where any payment is delinquent more than 60 calendar days past the due date.

The Department will reduce the administrative fee of the initial HA by the housing assistance payment due and the full amount of the initial HA's administrative fee earned for the unit for every month the payment is outstanding, including the initial 60 calendar day period. The Department may also freeze the use of the Section 8 administrative fee reserve. The Department will make the adjustment for the reduction of the administrative fee at the time of the year-end settlement.

The initial HA must demonstrate that it has fully reimbursed the receiving HA for payments that are past due before the HUD State or Area Office will discontinue the sanction. (The initial HA may demonstrate the reimbursement by sending a copy of the letter transmitting the reimbursement or a copy of the check to the HUD State or Area Office.)

The Office of Public Housing in the HUD State or Area Office will inform the initial HA by letter when the sanction has been imposed. In addition to the information covered in the preceding paragraph, the letter will identify the receiving HA and the amount owed to date.

4. Office Director Discretion. Although the sanctions described above are considered to be the appropriate penalty for failing to promptly reimburse the receiving HA, the Director of the Office of Public Housing or the Administrator of Native American Programs has discretion in determining whether these penalties should be imposed in all cases, and may take any mitigating factors into account in imposing or discontinuing the sanctions. For example, if the reduction of the administrative fee would significantly jeopardize HA program operations, the Office Director or Administrator may reduce the penalty. However, the Office Director or Administrator must take appropriate action to ensure that the initial HA promptly reimburses the receiving HA and makes future payments in a timely manner.

This general policy also does not in any way restrict the authority of the HUD Director of the Office of Public Housing or Administrator or Native American Programs to impose sanctions on receiving HAs with delinquent billing reimbursements that are not over sixty days outstanding, and is not intended to discourage the Director or Administrator from imposing penalties for late reimbursements that are not more than sixty days past due.

\s\

Kevin Emanuel Marchman
Acting Assistant Secretary for
Public and Indian Housing